

In the United States Court of Federal Claims

No. 22-1222

(Filed: 31 October 2022)

NOT FOR PUBLICATION

JIM GARCIA, *
*
Plaintiff, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *

ORDER

HOLTE, Judge.

On 20 October 2022, the government filed a motion for a sixty-day enlargement of time—from 7 November 2022 to 9 January 2023—to respond to plaintiff Jim Garcia’s complaint, ECF No. 7 (“Gov’t’s EOT Mot.”). The government requested additional time because government “counsel has not yet received the administrative record” and “has been required to dedicate significant time to another time-sensitive matter in this Court[.]” *Id.* at 1–2.

On 28 October 2022, Mr. Garcia filed an opposition, ECF No. 8 (“Pl.’s EOT Resp.”). He “request[s] the Court deny this motion by the defendant.” *Id.* at 1. Mr. Garcia asserts “[t]he U.S. Army had sufficient time to respond and has not done so.” *Id.* He additionally argues “the law is clear on [Combat-Related Special Compensation] pay for individuals with a [Veterans Affairs] rating of unemployability.” *Id.* at 1–2.

A plaintiff “may overcome what would otherwise be good cause under Rule 6(b)(1)(A) of the Rules of the United States Court of Federal Claims (RCFC)” by showing “prejudice that affects a plaintiff’s ability to respond to filings or otherwise press its case.” *Quintano Cabrera v. United States*, No. 19-480, 2019 WL 4942322, at *1 (Fed. Cl. Oct. 8, 2019). “[T]he mere fact of the delay alone cannot be enough to establish prejudice, otherwise every opposed motion for an extension would have to be denied.” *Novad Mgmt. Consulting, LLC v. United States*, No. 19-425, 2019 WL 3015220, at *1 (Fed. Cl. July 9, 2019).

Mr. Garcia complains of the delay he has suffered in awaiting resolution of his claim; he does not show, however, he would be unduly prejudiced by an enlargement of time. *See* Pl.’s EOT Resp.; *Novad Mgmt. Consulting, LLC*, 2019 WL 3015220, at *1; *Quintano Cabrera*, 2019 WL 4942322, at *1. The government’s enlargement of time request to receive the administrative

record might afford Mr. Garcia the relief he requests, and Mr. Garcia does not aver he will be unduly prejudiced by the enlargement of time; thus, the Court finds Mr. Garcia did not overcome the good cause shown by the government in seeking an enlargement of time. *See Novad Mgmt. Consulting, LLC*, 2019 WL 3015220, at *1; *Quintano Cabrera*, 2019 WL 4942322, at *1.

Mr. Garcia does not assert, nor does the Court find, he will be prejudiced by a sixty-day enlargement of time for the government to respond to the complaint. Accordingly, for good cause shown, the Court **GRANTS** the government's motion for enlargement of time, ECF No. 7. The government **SHALL FILE** a response on or before **9 January 2023**.

IT IS SO ORDERED.

s/ Ryan T. Holte
RYAN T. HOLTE
Judge